



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-3007

Re: The issuance of alien poll tax receipt.

Your letter of January 14, 1941, reads as follows:

"Our auditors, in making audits of the Tax Assessors--collectors' accounts for the year 1939, have found that a Tax Assessor collector of a certain county, in attempting to comply with the provisions of House Bill 343, Acts of the Regular Session of the Forty-sixth Legislature, with reference to issuing poll tax receipts to aliens, has been first issuing the regular voting poll tax receipt form, and upon discovering that the person to whom the receipt was issued is an alien he immediately cancels that receipt and issues the 'alien receipt'. This Tax Assessor-collector has followed the practice of issuing both the voting poll tax receipt and the alien tax receipt regardless of whether or not he has learned that the taxpayer was an alien before the receipt was written.

"We find it very confusing, in auditing the account, when the two receipts have been issued. We are enclosing copies of the two receipts, and you will note that each receipt refers to the fact that the Tax Assessor-Collector has received the usual amount of \$1.75 for issuing the receipt.

"The writer is unable to determine any necessity for the Tax Assessor-collector to issue the voting poll tax receipt and immediately cancel said receipt because the taxpayer is an alien; therefore, we shall ask that you advise us whether or not in your opinion it is necessary for the two receipts to be issued, or whether the Tax Assessor-collector, after obtaining information showing that the taxpayer is an alien, would be

authorized to issue only the alien tax receipt.

"In all counties that we have audited, with this one exception, the Tax Assessor-collectors are issuing only the alien tax receipts if the taxpayer is not a citizen."

The pertinent provisions of House Bill 343 (Articles 2965, 2970 and 2975, V.A.C.S.) are as follows:

"Each poll tax receipt and its duplicate shall show * * * whether the taxpayer is a citizen of the United States * * *.

"If from the information on the poll tax receipt above required, it appears that the party receiving the same is an alien, he shall be given a receipt from a book specially prepared for alien taxpayers, which book is hereinafter provided in this title, and the Tax Collector and the Commissioners Court or other authorities providing said poll tax receipt shall have printed on the face of said receipt the word 'alien', * * *

"* * *and at the same time said books are made the Commissioners Court shall prepare a separate book for each precinct as herein provided which shall be marked 'Alien Poll Tax Receipt Book' and if the tax certificate provided for in Article 2965 of this Chapter discloses that said applicant is an alien then the Tax Collector shall issue from the book marked 'Alien Poll Tax Receipt Book' a receipt to said applicant * * * it shall be the duty of the Commissioners Court to provide the separate book as herein set out and have the receipt prepared in said book in conformity with the above provision.

The obvious purpose of the Legislature in enacting House Bill 343 is reflected in Section 7 of the Act which reads in part:

"Sec. 7. The fact that many aliens in this State present themselves at the polls to vote, and actually vote in elections, and the fact that the present form of poll tax receipt is insufficient to call attention to the officials of the elections the fact that said voter is an alien, and the fact that it is desirable to so definitely mark said poll tax receipt as

to distinctly apprise election officials that the voter is an alien, and the fact that such action would tend to a purification of the ballot and the making of elections in this State more expressive of the will of its citizens, * * *."

The Act requires the tax collector to issue an alien poll tax receipt from the alien poll tax receipt book if the information which he must secure from the taxpayer discloses that the taxpayer is an alien. We may not attribute to the Legislature an intent to require a useless thing; namely, the issuance, first, of a regular poll tax receipt to an alien, the cancellation of same, and the issuance, then, of an alien poll tax receipt. Such a procedure would serve no purpose.

It is our opinion that House Bill 343 contemplates that the tax collector shall ascertain, as he must under the statutes in the manner required, if the taxpayer is an alien, whereupon, if so, he shall issue to him only one receipt and this from the alien poll tax receipt book.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Zollie C. Steakley
Zollie C. Steakley
Assistant

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APPROVED JAN 23, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman